

September 10, 2010

Federal Communications Commission
Wireline Competition Bureau
Washington, DC

Oglala Sioux Tribe – Pine Ridge Agency #344
Office of the Designated Agency Representative for
Broadband & Technology
Pine Ridge, SD 57770

RE: WC Docket No. 09-197: AT&T Petition for ETC Status on the Pine Ridge Reservation

Dear Sirs:

The Oglala Sioux Tribe has been in pursuit of a telecommunications solution to serve the entire population of members, employees and administrators for over a decade since the deployment of the Tate Woglaka Service Agreement, which was signed in 2000, and provided ETC Status to the company we selected as our partner and service provider. This relationship was established because at the time the Tribe new very little about the fastest growing industry in the world. In fact, so little was known that the Tribe had to partner with a company, who could achieve the goals we set out for it, but had to do it in a timeframe we could deal with in regard to immediate needs. In fact, then OST President Harold Salway requested to find a telecommunications system that was affordable to all members of the OST. This came about because of the extremely high telephone charges that Golden West Telecommunications was charging the members of the OST. A more affordable telephone system was called for to address the specific socio-economic realities of life on the Pine Ridge Indian Reservation. After several unfruitful efforts to negotiate a more realistic price plan from Golden West, we discovered article in which Western Wireless Corporation (WWC) had successfully implemented a wireless communications system throughout the entire country of Ireland. We immediately contacted WWC and, within two (2) weeks, WWC sent a team of engineers and senior company officials to meet with us and discuss what the OST desired in its telecommunications endeavors. It was agreed upon, starting with our initial meeting, that it was preferable that the OST should own its own communications system. Everything following that meeting was designed with Tribal ownership in mind. After several meetings, we decided that a wireless communications system was the only manner through which full communications capability could be provided to the OST at a cost that almost everyone could easily afford. Those needs have only become more complicated since that time, however, the situation itself has grown into a more complex

situation as the original wireless company was sold, resold and then given to AT&T via an Anti-Trust divestiture order, thus, nullifying the original agreement, where we as a tribe are now forced into making decisions that have no bearing upon our current direction to finding our solution. When WWC was sold to Alltel followed by Alltel being sold to Verizon. The Verizon purchase of Alltel was in direct violation of the Tate Woglaka Service Agreement (TWSA). Said Agreement clearly states that any and all changes that affect the services provided must first be made known to the OST and provide time and room for Tribal consultation and approval. The decision of the FCC and Department of Justice (DoJ) clearly stipulated that, to avoid a monopoly of wireless communications, Verizon was required to divest itself of all Alltel holding in a fifteen (15) state area, but leaves the Tribe with only one choice of wireless carriers. Quite Simply, AT&T is and will remain upon a GSM Network with plans to go to LTE sometime in the future. Our system has been set up delivering CDMA services and in our eyes has more versatility in regard to services that we are planning to deploy to our 1st Responders' going beyond traditional residential usage that AT&T offers. Due to our situation our residential customers must be interoperable with our on-coming 1st Responders' Network, which will also be delivering Telehealth Services throughout. Our new 1st Responders' Network requires certain functions that seem to be available only from CDMA providers. These issues are important to us because of the level of internal strife has reached a hyper-critical level in terms of needs by our 1st Responders. In fact, due to the requirements of certain grants we are in consideration of the 700MHZ Spectrum as an immediate solution. The introduction of GSM and its subsequent replacement of CDMA networks in the Midwest will result in several telecommunication areas of non-interoperability. Before the AT&T introduction of GSM to South Dakota (SD), cell phones calls from Rapid City to Nebraska were possible. Indeed, the construction of numerous cell towers along the major highways in this area provided a more balanced and available communications experience. Once SD makes the transition to GSM, cell phone calls to Nebraska will no longer be possible due to the conflicting communications network technology. This will cause more hardship than it solves.

In regard to the AT&T petition itself, please take note that there are no accompanying letters of support, resolutions of support or mention of tribal support anywhere in the document. AT&T has violated the terms of the TWSA by applying for ETC designation on the Pine Ridge Indian Reservation by not advising the Tribe or seeking its support in their endeavor. Therefore, as the Designated Agency Representative for Broadband & Technology for the Oglala Sioux Tribe, I must oppose the request to grant Eligible Telecommunications Carrier Status to AT&T Mobility LLC, as our tribe is in direct pursuit of that designation for its itself. However, due to the current state of affairs in regard to the previous carrier Verizon Wireless, in regard to the lawsuit being sought by our tribe, in regard to the missing audit of the \$46,000,000 provided to them via the Universal Service Fund, and equipment that now is owned by AT&T, which they

plan on disassembling, as soon as possible, and not returning to the tribe. This specific area of contention is but one (1) of the several important issues we are in the process of negotiating with AT&T. The assigned responsibility of new TWSA negotiations with AT&T by the OST Economic and Business Development Committee (E&BDC) and later supported by the OST Council allowed us to assemble a team of extremely well known and industry acknowledged telecommunication attorneys as well as an OST attorney. We have been working on these issues with Alltel, Verizon and AT&T for almost two (2) years. With the exception of the OST attorney, all of the legal team has been working pro bono for the OST. In situations that required physical meetings with the Federal Communications Commission (FCC), these law firms have provided for all travel expenses for round trip transportation between Pine Ridge and Washington DC. Without their support, we would not have been able to meet with the FCC on several important dates. We find that granting such status to a much larger corporation without first accounting for the previous carrier would create an even more complex situation, where our only course of action would be through the courts to continue our search for a solution. More importantly, our concern is that without governing legislation regarding Tribal Telecommunications this situation will become one that is even more un-manageable nationwide as the tribes pursue telecommunications. In fact, we conclude that the situation is, as it is, because of the lack of tribal telecommunications legislation within either the Communications Act of 1934 or Telecommunications Act of 1996. However, if looked at it from a high level. The FCC through the Universal Service Fund is taxing every consumer of telecommunications for use in High-Cost, Low-Income Areas, such as Indian Country, where our tribal members receive service and corporations receive subsidies to provide that service. However, we as Indian Country have no representation of those taxes, and no course of action in regard to how those resources are allocated amongst the carriers on our behalf. Therefore, it now becomes our concern on how to best achieve this legislation and avoid further damage to Indian Country, as a whole, due to the lack of representation, which is a function of Congress not any part of the Administration! Now, that we understand our situation and see a path to success we hope that your decisions will reflect our concerns, and move to work with us in this regard. Thankfully, a National Native Broadband Task Force is being formed to address these issues but we are unsure if this is going to be the actual outcome. Earlier this year, immediately following the FCC notification of the establishment of the FCC/Native Nations Broadband Task Force, I was approved by the OST E&BDC to be the official OST representative on said Task Force. Over the past ten (10) years, I have been successful in developing a mutually beneficial and respectful relationship with numerous elements inside the FCC as well as individual relationships with the FCC Commissioners and staff. These matters have provided the OST with a unique relationship with the FCC. In fact, other Agencies such as the US Treasury Department are reviewing their rules in regard to the Tribal Tax Exempt Bond to ease the restrictions and allow Indian Country to use it for important Infrastructure developments, which will affect such

legislation and our decisions. Therefore, we are requesting that your office become our advocate for our proposed legislation, which will help to alleviate all of the current stresses throughout the markets, agencies and board rooms and level the playing field for Indian Country, who is the rightful owner of the land and air it resides upon, where the rest of it is in "Trust" by the United States of America on behalf of Indian Country the rightful owners of the land and air. For the past ten (10) years, as a Tribal Member, I have constantly suggested, supported and advocated the formation of a service agreement by all other SD based Indian Tribes. To date, none have elected to pursue this approach. Now, because of the lack of such an agreement, the other Tribes are not in a position to effectively negotiate with other telecommunication carriers or with the FCC. Despite this fact, I remain open and willing to assist the Tribes in their future endeavors. My hope is to be able to formulate a united front in all areas of telecommunications issues to secure and protect the rights and best interests of all SD based Indian Tribes.

In consideration of these issues, we respectfully request that the petition submitted by AT&T Mobility LLC, be denied indefinitely, which will open the door for our tribe to finalize our Strategic Plan to meet the National Broadband Plan and achieve interoperability through the Oglala 1st Responders' Network and associated Tribal Telco we are establishing through the use of the Eligible Telecommunications Carrier Status and our rights to govern ourselves. We request that these changes have a tangible quantifiable substantive course of action that outlines for us who will be making, what changes that we are to be expected to observe, where we can better understand the processes that are taking place and when can we expect to have a written response from your office.

Respectfully,



George Rogers III, Designated Agency Representative: Broadband & Technology
Oglala Sioux Tribe
555 Estes Street
Lakewood, CO 80226
Rogers3g@gmail.com
720.404.5408